

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

CRESTA CAPITAL STRATEGIES, LLC,

Plaintiff,

v.

APPROVED CASH ADVANCE CENTERS, LLC,

Defendant.

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**Index No. 08 CIV. 2399**

**JUDGE KAPLAN**

**AMENDED NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §1441, et seq., the Defendant, Approved Cash Advance Centers, LLC (“ACA”), by and through its counsel, states as follows:

1. Defendant ACA has been sued in an action styled Cresta Capital Strategies, LLC v. Approved Cash Advance Centers, LLC, Index No. 600163/08 in the Supreme Court for the State of New York, County of New York, and filed on January 18, 2008, with those papers being received by Defendant ACA on February 7, 2008. Copies of the Summons and Complaint are attached hereto and made a part hereof collectively as Exhibit “A” and constitute all process, pleadings and orders purportedly served upon Defendant ACA by the Plaintiff in this action.

2. Defendant ACA received the Summons and a copy of the Complaint on February 7, 2008. Notice of Removal was timely filed by Defendant ACA with the Clerk’s Office for the United States District Court for Southern District of New York on March 7, 2008 pursuant to 28 U.S.C. § 1446(b) in that said filing occurred within thirty (30) days of receipt by Defendant ACA of a paper from Plaintiff whereby Defendant ACA was able to ascertain that the case was removable.

3. In an Order signed by Judge Lewis A. Kaplan on April 3, 2008, counsel for Defendant ACA was directed to file an Amended Notice of Removal on or before April 15, 2008 sufficiently alleging diversity of the parties by specifying the citizenship of the members who composed both Plaintiff Cresta Capital Strategies, LLC (Cresta) and Defendant ACA. A copy of the Order signed by Judge Lewis A. Kaplan on April 3, 2008 is annexed hereto as Exhibit "B".

4. This action is a civil action of which this Court has original jurisdiction under 28 USC § 1332, and is one which may be removed to this Court by Defendant ACA pursuant to the provisions of 28 USC § 1441(b) in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, by reason of the fact that Plaintiff Cresta is claiming damages in the sum of \$1,050,000.00 by reason of Defendant ACA's alleged breach of an Investment Banking Agreement between Plaintiff and Defendant.

5. Defendant ACA is the sole Defendant in this matter.

6. Plaintiff Cresta is the sole Plaintiff in this matter.

7. Plaintiff Cresta is a New York limited liability company formed in the State of New York and having its principal place of business in Melville, New York. The sole member of Plaintiff Cresta is Kesef Capital, LLC (Kesef), a New York limited liability company formed in the State of New York and having its principal place of business in the State of New York. The sole member of Kesef is an individual named Michael Mirman. Michael Mirman resides in the State of New York and is a citizen of the State of New York. Plaintiff Cresta, Kesef and Michael Mirman were all citizens of the State of New York and no other state, both at the time of the commencement of the instant action by Plaintiff, and at the time of Removal of this action to Federal Court.

8. Defendant ACA is a Delaware limited liability company, formed in the State of Delaware and having its principal place of business in the State of Tennessee. The sole member of Defendant ACA, both at the time of commencement of the instant action by Plaintiff Cresta and presently at the time of Removal of this action to Federal Court, is Cash Advance Holdings, Inc. ("CAH"). This entity, CAH, is a domestic corporation that was incorporated in the State of Delaware and has its principal place of business in Pasadena, California. Thus, CAH is a citizen of both Delaware and California. CAH is not now, nor ever has been, a citizen of New York State, where the current state court action is pending. Based on the citizenship of its sole member, Defendant ACA is a citizen of Delaware, California and, possibly Tennessee, but not New York State.

9. That removal of this action is based on Diversity of Citizenship.

10. That removal of this action is proper and appropriate in that Diversity Jurisdiction exists pursuant to 28 USC § 1332(a) by reason of the fact that the amount in controversy exceeds the sum of \$75,000.00, exclusive of costs and interest, and the action is between citizens of different states. Removal to the United States District Court is, therefore, authorized by 28 USC § 1441(a).

11. That pursuant to 28 USC § 1441(b), a copy of this Amended Notice of Removal will be filed with the Clerk of the Supreme Court of the State of New York, County of New York, and served upon counsel for all adverse parties. A copy of the Amended Notice of Removal To State Court is annexed hereto as Exhibit "C".

WHEREFORE, Defendant ACA respectfully prays that this action be removed to the United States District Court for the Southern District of New York.

Respectfully submitted,

Law Offices of Seedorf & Scheld

By: \_\_\_\_\_/s/\_\_\_\_\_

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